

Colleen Flynn, State Bar No. 234281
LAW OFFICE OF COLLEEN FLYNN
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
Telephone: (213) 252-9444
Fax: (213) 252-0091
cflynnlaw@yahoo.com

Attorney for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ADRIAN RISKIN,

Petitioner,

vs.

HOLLYWOOD MEDIA DISTRICT
PROPERTY OWNERS ASSOCIATION,

Respondent.

Case No.

VERIFIED PETITION FOR WRIT OF
MANDATE DIRECTED TO THE
HOLLYWOOD MEDIA DISTRICT
PROPERTY OWNERS ASSOCIATION
ORDERING COMPLIANCE WITH
CALIFORNIA PUBLIC RECORDS ACT;
EXHIBITS A-L

[Gov't Code § 6250 *et seq.*]

Under Code of Civil Procedure §§ 1085 *et seq.* and the California Public Records Act, Government Code §§ 6250 *et seq.*, ("CPRA"), petitioner Adrian Riskin ("Petitioner") petitions this Court for a writ of mandate directed to respondent Hollywood Media District Property Owners Association ("Respondent"), commanding Respondent to comply with the CPRA. By this verified Petition, Petitioner alleges:

JURISDICTION

1. This Court has jurisdiction over this Petition pursuant to Cal. Gov't Code §§ 6258 and 6259.

//

1 **THE PARTIES**

2 1. Petitioner Adrian Riskin is a concerned resident of Hollywood in Los Angeles,
3 California. Petitioner has a PhD in mathematics and is a math professor at a local college. He
4 also publishes a website, <http://michaelkohlhaas.org>, where he regularly disseminates
5 information to the general public about the workings of the City's Business Improvement
6 Districts, including information obtained through the California Public Records Act. As such,
7 Petitioner is within the class of persons beneficially interested in Respondent's faithful
8 performance of its legal duties under the CPRA.
9
10

11 2. Respondent Hollywood Media District Property Owners Association was created
12 by the City of Los Angeles in 1999, pursuant to the Property and Business Improvement District
13 law of 1994, California Streets and Highways Code Section 36600 *et seq.*, to manage the
14 Hollywood Media District Business Improvement District ("BID"). *See* Los Angeles Municipal
15 Ord. 172793. The Respondent is funded by the City of Los Angeles through as assessment on
16 property owners located within the BID with the purpose of providing streetscape improvements,
17 promotional activities, security and other services. *See* Los Angeles City Council File 97-1253.
18 Respondent is an association subject to the CPRA. *See* Streets and Highways Code § 36612.
19
20
21

22 **SUMMARY OF ALLEGATIONS**

23 3. Petitioner is concerned that the Respondent is not following the law in its
24 treatment of people who are homeless or have mental illness. He is troubled that Respondent, in
25 its efforts to benefit the financial interests of its members, appears to be targeting the poorer
26 residents in its geographic territory for displacement, including through harassment by its private
27 security guards.
28

1 4. Petitioner is also concerned that Lisa Schechter, Executive Director of the Media
2 District, is violating the City of Los Angeles' Ethics Rules by engaging in "revolving door"
3 lobbying of current City Council members. For example, within a year of leaving her position as
4 deputy chief of staff to Councilmember Tom LaBonge on June 30, 2015, she met with
5 Councilperson Mitch O'Farrell's staff on behalf of Respondent, requesting Council action on
6 issues important to Respondent, such as the BID's expansion and parking rules, potentially in
7 violation of Los Angeles Municipal Code §49.5.11. Petitioner reported these potential violations
8 to the Los Angeles City Ethics Commission on May 20, 2016. Mr. Schechter's meetings with
9 Councilmember Ryu's office may also have violated the City's revolving door prohibitions.
10 Petitioner is further concerned that Respondent has refused to fulfill its statutory obligation to
11 provide the requested documents in an attempt to hide evidence of its Municipal Code violations.
12

13 5. In an effort to monitor the workings of the Respondent and other BIDs, and
14 disseminate his findings on his website, Petitioner has utilized the CPRA. The materials on
15 Petitioner's website are available for free to the public. He has been contacted by documentary
16 film makers, public interest attorneys, as well as students from Boalt Hall's Policy Advocacy
17 Clinic who have utilized information on his website for their projects.
18

19 6. Notwithstanding the public's strong interest in these issues, and despite the need
20 for openness from private, non-profit corporations providing public functions and municipal
21 services, Respondent has disregarded its legal obligations and restricted public access to
22 information.
23

24 //

25 //

BACKGROUND OF CPRA REQUESTS

12/8/15 Request

7. On December 8, 2015, Petitioner submitted a CPRA request to Respondent requesting: a) Respondent's Executive Director Lisa Schechter's resume and b) all her emails from her first day on the job in September 2015 to December 8, 2015. *See* 12/8/15 Riskin email, attached hereto as **Exhibit A**.

8. Between December 21, 2015 and March 27, 2016, Petitioner sent attorney for the Respondent, Jeff Briggs, many emails inquiring into the status of his request. *See* 12/21/15, 12/22/15, 12/23/15, 1/13/16, 1/14/16, 1/29/16, 2/9/16, 2/12/16, 2/25/16, 3/9/16, 3/15/16, 3/18/16, and 3/21/16 emails from Riskin and Briggs, attached hereto as **Exhibit B**.

9. On December 22, 2015, Mr. Briggs, sent Petitioner the requested resume.

10. On February 9 and 12, 2016, Mr. Briggs emailed that there were about 1,000 responsive emails – *See* 2/9/16 and 2/12/16 Briggs emails, attached hereto as **Exhibit C**.

11. On March 27, 2016, approximately three and half months after Petitioner made his CPRA request, Mr. Briggs sent 97 emails, only 5 of which were from the time period requested, and most seemed selected for lack of substance. Many were responses to Ms. Schechter's emails but not her emails, which were requested.

12. Later that same day, on March 27, 2016, Petitioner notified Mr. Briggs of the error. Mr. Briggs responded right away, acknowledging he might have made a mistake and promising to look into the matter. *See* 3/27/16 Riskin email and 3/27/16 Briggs email, attached hereto as **Exhibit D**.

13. Mr. Briggs did not respond again to Petitioner's request until contacted by Mr. Riskin's counsel on June 20, 2016.

3/18/16 Request

14. On March 18, 2016, Petitioner submitted a second CPRA request to Respondent requesting: a) all emails between Ms. Schechter and anyone at the domain lacity.org and/or any of its sub-domains between December 9, 2016 and March 18, 2016, and b) all emails between Ms. Schechter and Laurie Goldman or Kerry Morrison during the same time frame of December 9, 2016 to March 18, 2016. *See* 3/18/16 Riskin email, attached hereto as **Exhibit E**.

15. On March 28, 2016, ten days after submitting his request, Petitioner sent Ms. Schechter a follow-up email inquiring about the status of his request. *See* 3/28/16 Riskin email, attached hereto as **Exhibit F**.

16. Ms. Schechter acknowledged receipt of the request on March 29, 2016 but Respondent did not produce any responsive documents until after being contacted by Petitioner's counsel on June 20, 2016. *See* 3/29/16 Schechter email, attached hereto as **Exhibit G**.

Media District's Response to Counsel

17. In light of the Respondent's failure to meaningfully respond to Petitioner's two CPRA requests, on June 20, 2016, Petitioner's counsel sent a letter to Respondent notifying it that it had failed its statutory obligations under the CPRA. *See* 6/20/16 Flynn letter, attached hereto as **Exhibit H**.

18. On June 30 and July 1, 2016, Mr. Briggs emailed Petitioner's counsel, producing 1,455 emails. However, many were duplicates. There were only 617 distinct emails. Of these 617 emails, only 9 were responsive to Petitioner's December 8, 2015 request and 266 responsive to his March 18, 2016 request. More than half – 342 – were not responsive to either request. And only three of the responsive emails were sent from lisa@mediadistrict.org.

19. Mr. Briggs' July 1, 2016 email stated, "there are, in fact, very few Schechter

1 emails prior to the first part of 2016 due to a number of email and server issues at the BID when
2 Ms. Schechter commenced work; in addition, for most of those first months she was in meetings
3 and on the phone and otherwise getting up to speed, and did not use email as much as she did
4 after the first of the year, even apart from the email and server problems extant in those first few
5 months of her executive directorship.” See Briggs 7/1/16 email, attached hereto as **Exhibit I**.

7 20. On July 7, 2016, Petitioner’s counsel responded, “[i]t is defies belief that this
8 sparse collection includes all responsive records. My client has received copies of numerous
9 emails from other sources which are responsive to this request, none of which were provided by
10 you. It is implausible that Ms. Schechter could have carried on the complex business of running
11 the Media District for the six months between September 2015 and March 2016 without having
12 sent more than two emails ... If the balance of the emails are missing due to technical problems,
13 as you suggest, one would expect to see emails arranging for technical solutions as well as
14 emails informing Ms. Schechter’s numerous correspondents that she was having problems with
15 her email.” See Flynn 7/7/16 email, attached hereto as **Exhibit J**.

18 21. On July 27, 2016, Mr. Briggs responded, claiming Respondent had produced “all
19 responsive records in existence,” “Ms. Schechter’s email system was plagued with problems”
20 and that “some emails were lost due to those systemic problems.” See Briggs 7/27/16 email,
21 attached hereto as **Exhibit K**.

23 22. Notwithstanding Mr. Brigg’s assertion that all responsive emails have been
24 produced, Mr. Riskin has obtained from other sources, via the CPRA, over fifty (50) emails
25 between Ms. Schechter and other City agencies responsive to Mr. Riskin’s requests. Yet, these
26 emails were not produced by Respondent. See, Schechter emails, attached hereto as **Exhibit L**.

28 23. It has been over ten months since Respondent received Petitioner’s initial

1 CPRA request, and seven months since receiving his second request.

2
3 **THE CALIFORNIA PUBLIC RECORD'S ACT**

4 24. Under the CPRA, all records that are prepared, owned, used, or retained by any
5 public agency, and that are not subject to the CPRA's statutory exemptions to disclosure, must
6 be made publicly available for inspection and copying upon request. Gov't Code § 6253. BIDs
7 are entities subject to the CPRA. California Streets and Highways Code § 36612.
8

9 25. Whenever it is made to appear by verified petition to the superior court of the
10 county where the records or some part thereof are situated that certain public records are being
11 improperly withheld from a member of the public, the court shall order the officer or person
12 charged with withholding the records to disclose the public record or show cause why he or she
13 should not do so. The court shall decide the case after examining the record in camera (if
14 permitted by the Evidence Code), papers filed by the parties, and any oral argument and
15 additional evidence as the court may allow. *Id.* § 6259(a).
16

17 26. If the Court finds that the failure to disclose is not justified, it shall order the
18 public official to make the record public. *Id.* § 6259(b).
19

20 27. To ensure that access to the public's information is not delayed or obstructed, the
21 CPRA requires that "[t]he times for responsive pleadings and for hearings in these proceedings
22 shall be set by the judge of the court with the object of securing a decision as to these matters at
23 the earliest possible time." *Id.* § 6258.
24

25 28. There is no lawful or proper reason for Respondent's refusal to provide the
26 records, materials and information Petitioner has requested. Respondent's wrongful refusal to
27 provide the requested records, violates the CPRA. This Court has jurisdiction to order the
28

1 requested records disclosed at the earliest possible time. Furthermore, Petitioner is entitled to a
2 mandatory award of attorneys' fees and costs incurred in bringing this Petition. *Id.* § 6259.
3

4 5 **CAUSE OF ACTION**

6 29. Petitioner alleges on information and belief that Respondent will continue
7 to refuse to permit members of the public, including himself, to inspect or obtain copies of the
8 requested public records in violation of the CPRA.
9

10 30. Petitioner alleges on information and belief that the information he seeks from
11 Respondent is maintained in Los Angeles County. The requested records are public records not
12 exempted from disclosure.

13 31. Based on information set forth in this Petition, Petitioner believes, and therefore
14 alleges, that Respondent's failure to locate records responsive to his requests resulted from a
15 search that failed to expend good-faith "reasonable effort," in violation of the CPRA § 6253.1.
16 Respondent's failure to conduct an adequate search in response to Petitioner's requests violates,
17 among other provisions, of the CPRA, Government Code Section 6254(b), which provides in
18 pertinent part that, [e]xcept with respect to public records exempt from disclosure by express
19 provisions of law, each state or local agency, upon a request for a copy of records that reasonably
20 describes an identifiable record or records, shall make the records promptly available to any
21 person[.]"
22
23

24 **REQUEST FOR RELIEF**

25 32. Government Code Sections 6259(a) and 6259(b) authorize the Court to compel
26 Respondent to release the requested documents.
27

28 THEREFORE, Petitioner respectfully requests that:

1. This Court issue a peremptory writ of mandate, without a hearing or further notice, immediately directing Respondent to immediately conduct a diligent and comprehensive search for the requested records, and to thereafter promptly provide Petitioner the requested records or, in the alternative, an order to show cause why these public records should not be ordered disclosed;
2. The Court set “times for responsive pleadings and for hearings in these proceedings... with the object of securing a decision as to these matters at the earliest possible time,” as provided in Government Code Section 6258;
3. The Court enter an order declaring that Respondent has violated the CPRA by its refusal to release the public records sought by Petitioner’s requests, and by its failure to properly respond to, and assist with, Petitioner’s requests;
4. The Court enter an order awarding Petitioner his reasonable attorney’s fees and costs incurred in bringing this action, as provided in Government Code Section 6258; and,
5. The Court award such further relief as is just and proper.

DATED: November 14, 2016

Respectfully Submitted,

LAW OFFICE OF COLLEEN FLYNN
Attorney for Petitioner

/s/ Colleen Flynn
COLLEEN FLYNN